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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,374	12/08/2003	Leo Linder	028987.52900US	8134

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EXAMINER

CULBRETH, ERIC D

ART UNIT PAPER NUMBER

3616

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/729,374	Applicant(s) LINDER ET AL.	
	Examiner Eric Culbreth	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 17 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/8/03&5/7/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The examiner acknowledges the status request filed 5/6/05, and following is an action on the merits of the application. The examiner notes that the Office no longer makes examiners aware of status requests that have been filed.

Information Disclosure Statement

2. In order to ensure proper consideration, applicant should provide a copy of the references cited in paragraphs [0004] and [0011] with the next correspondence, as they are not readily available to the examiner.

Drawings

3. The drawings are objected to because of the following informalities. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application

must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In the Figure "-3-" and "-K1-" should be "3" and "K1", as numerals that rest on the part to which they refer should be underlined.

Specification

4. The disclosure is objected to because of the following informalities: In paragraph [0002] the serial number and filing date should be filled in.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 6 "of breastwork" should be "of a breastwork".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5, 8, 12-14, 16, 19, and 21 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by German Published Application 19646698 (of record, cited by applicant).

German '698 discloses, as broadly recited, a motor vehicle comprising a body structure that has a lateral structure (the side pillar and windows illustrated in Figure 1), seat 12, 14 fastened to the body structure, and a side impact protection device including a head airbag 24 with a first inflation device 42 that can deploy upward in a region of a breastwork (at the bottom of the side window in Figure 1). A side airbag 22 with an inflation device 40 can deploy out of a sidewall of a seat back 14 toward a front. The side airbag 22 protects a thorax and comes to rest next to the breastwork in Figure 1 (claims 1, 12 and 21). The deployment opening on the module 32 for the thorax side bag is below the breastwork (claims 2 and 13). As functionally recited in claims 3 and 14, the thorax bag 22 "can" deploy upwardly out of the opening toward the breastwork (see Figure 3). Longitudinally, the thorax bag 22 can deploy essentially parallel to the lateral structure, and the head bag 24 can deploy essentially laterally to the side window (claims 5 and 16). The lower edge of bag 22 extends up to a pelvic region of the passenger (claims 8 and 19).

9. Claims 12, 15 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sinnhuber (US005556128A, of record, cited by applicant).

As functionally and broadly recited, Sinnhuber et al discloses a side impact protection device with a head airbag 9 with a first inflation device 7 that can deploy upward in a region of a breastwork of the lateral structure (the breastwork seen in Figure 3a) and a side air bag 8 that can deploy laterally from the seat (vehicle component in abstract, in the seat in Figure 1) . the side bag 8 is a torso or thorax bag which is arranged with its inflator in the seat back so as to deploy out of a side wall toward the front and come to rest next to the breastwork in Figure 3a as broadly recited (claim 12). In Figure 3a the airbag inflator is directly below the breastwork, and the airbag for the head in Figure 3a deploys only upward and parallel to a side window (claims 15 and 20).

10. Claims 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 4, 6-7, and 9-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Eyraier (US006302436B1), Tsutumi (US006113135A) and Japanese Patent 5-139232 disclose side air bag systems with plural bags.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 571/272-6668. The examiner can normally be reached on Monday-Thursday, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571/272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eric Culbreth
Primary Examiner
Art Unit 3616